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October 18, 1995

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**VIA COURIER**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**Re: Notice of Ex Parte Contact by MFS Communications Company,  
Inc., Eastern Telelogic, Inc., and MCI Communications  
Corporation, in CC Docket Nos. 91-141 and 94-97, Phase II**

Dear Mr. Caton:

In accordance with §§ 1.1206(a)(1) and (2) of the Commission's Rules, I am filing this letter as notice that, on October 18, 1995, Robert McCausland (for MFS Communications Company), Thomas McClung (for Eastern TeleLogic, Inc.), and Leonard Sawicki and Donald Sussman (for MCI Communications Corporation), and I met with David Sieradzki of the Policy and Program Planning Division, and Paul D'Ari, Carol Canteen and Richard Kwiatkowski of the Tariff Division. During the meeting we discussed various issues related to the implementation of expanded interconnection. Several handouts were distributed at the meeting, which are appended to this filing.

As required by the Commission's Rules, I am filing an original and two copies of this letter. Please direct any questions concerning this issue to the undersigned.

Respectfully submitted,

  
Jonathan E. Canis

Enclosures

cc: Kathleen Wallman  
James Schlichtling  
Geraldine Matise  
David Sieradzki

Paul D'Ari  
Carol Canteen  
Richard Kwiatkowski  
ITS

## **EXHIBIT A**



**Eastern TeleLogic  
Corporation**

**Eastern TeleLogic Corporation  
10/18/95**

**Bell Atlantic - Rates filed October 6, 1995**

**DS3 0-Mile Entrance Facility**

<b>Contract Term</b>	<b>Quantity</b>	<b>Rate</b>	<b>DS3-Cross Connect Rate</b>	<b>% Cross-Connect to Entrance Facility</b>
1 Year	1	\$3,080.00	\$207.24	6.73%
3 Year	1	\$2,700.00	\$207.24	7.68%
3 Year	3	\$1,966.67	\$207.24	10.54%
3 Year (DS3G)*	12	\$1,016.67	\$207.24	20.38%
5 Year	1	\$1,900.00	\$207.24	10.91%
5 Year	3	\$1,385.00	\$207.24	14.96%
5 Year (DS3G)*	12	\$625.00	\$207.24	33.16%
SALT	24	\$525.00	\$207.24	39.47%
SALT	48	\$430.00	\$207.24	48.20%

\*Assuming 100% fill rate

## **EXHIBIT B**

## NYNEX Physical Collocation Space Expansion Rating Issue

**Background:** MFS currently occupies 100 square feet of space in a number of NYNEX COs. MFS was charged \$54,900 for that "first 100 sq. ft.," as reflected on the attached tariff page (NYNEX Tariff F.C.C. No. 1, 3rd Revised Page 31-150).

MFS is now expanding a number of those existing NYNEX physical collocation space arrangements. *NYNEX is again applying the "first 100 sq. ft." nonrecurring charge of \$54,900 to the expansion space, even though its tariff indicates that the "per add'l sq. ft." nonrecurring charge is \$274.50 (i.e., \$27,450 per additional 100 square foot increment).*

<b><u>Impact:</u></b>	<b><u>Charges Applied to Collocators</u></b>	<b><u>Charges Supported by the Tariff</u></b>	<b><u>Unsupported Difference</u></b>
Initial (Existing) 100 sq. ft.:	\$54,900	\$54,900	
Space Expansion (100 sq. ft.)	\$54,900	\$27,450	<b><u>\$27,450</u></b>

## ACCESS SERVICE

31. The NYNEX Telephone Companies Rates and Charges (Cont'd)

(C)

31.28 Expanded Interconnection31.28.1 Expanded Interconnection Space and Facility Rates and Charges\*

		Nonrecurring Charges+	
(A)	<u>Per Office</u>		
	- per first 100 sq. ft.	\$54,900.00	
	- per add'l sq. ft.	274.50	
(B)	Expanded Interconnection Monthly Rates		(C)
(1)	Cable Space,		(M)
		<u>Monthly Rates</u>	
	Fixed**	Per Linear Ft.	(M)
	<u>(per multiplexing node)</u>	<u>per cable</u>	(M)
	\$45.60	\$0.23	(M)

+ These fees are exclusive of New York State and New York City Gross Receipts Taxes. Those taxes will be applied.

\* See Section 28. preceding for application of rates.

\*\* A microwave customer will not be assessed a fixed cable space charge unless the customer's cables and/or waveguide passes through the serving wire center cable vault. (M)  
(M)  
(M)

Certain rates on this page formerly appeared on 5th Revised Page 30-128 and 4th Revised Page 31-150.5.

Certain rates previously found on this page can now be found on 2nd Revised Page 31-150.1.

(This page filed under Transmittal No. 323)

Issued: August 22, 1994

Effective: October 6, 1994

Managing Director - Access Markets  
222 Bloomingdale Rd., White Plains, NY 10605

8-1-95

## **EXHIBIT C**



Communications Company, Inc.

ROBERT W. McCAUSLAND, SENIOR DIRECTOR - COLLOCATION/UNBUNDLED LOOPS  
999 OAKMONT PLAZA DRIVE, SUITE 400  
WESTMONT, ILLINOIS 60559-5516  
TELEPHONE: (708) 203-2505 FAX: (708) 203-2525

October 16, 1995

VIA OVERNIGHT DELIVERY

Ms. Laura Boone - Dallas ICSC  
Southwestern Bell Telephone  
One Bell Plaza, Room 2800  
Dallas, TX 75202

Re: Urgently-Needed Network Interconnection

Dear Laura:

It has been brought to my attention that Southwestern Bell has refused to process a number of MFS service orders for collocation circuits until it receives from MFS the total payment for newly-expanded collocation arrangements, *even though, to date, Southwestern Bell has not even issued bills for many of those CO arrangements, and even though Southwestern Bell routinely provides services to its customers prior to the completion of its own billing cycles and the subsequent submission by its customers of their payments.* As discussed with Hope Harbeck of your company on Friday, October 13, and as addressed below, MFS is having to send to Southwestern Bell, in advance of its receipt of many of the SWB bills, checks covering what we believe to be the remaining balances for those arrangements that we so urgently need.

MFS feels that the Southwestern Bell practice of requiring its competitors to, in all instances, submit total payment prior to establishing connections to SWB's ubiquitous LEC network demonstrates yet another highly anti-competitive practice purposely and unjustifiably imposed by your company on all of its competitors. Because of the urgency of our need and our inability to obtain such interconnection from any other provider (since none exists), MFS submits the following amounts, even though we have not even received all of the bills:

<u>CENTRAL OFFICE</u>	<u>ACCOUNT NUMBER</u>	<u>AMOUNT OF CHECK</u>	<u>CHECK NUMBER</u>
STLSMO21	110 002-5002	\$ 41,933.81	301032
DLLSTXRI	510 002-1013	\$111,342.30	10801040
DLLSTXRN	510 002-1010	\$ 42,329.76	10801041
DLLSTXFB	510 002-1012	\$ 42,329.76	10801042
HSTNTXCL	610 002-3005	\$ 53,167.95	11000768
HSTNTXGP	610 002-3006	\$ 39,043.60	(Combined with HSTNTXCL)

Now that Southwestern Bell has received what MFS believes to be the total remaining, yet in above-cited instances still unbilled, payment for these newly-expanded inter-

Ms. Laura Boone - Southwestern Bell  
October 16, 1995  
Page 2

connection arrangements, I request that you promptly proceed in providing to MFS the network interconnection that it so badly needs. Otherwise, MFS will continue to find itself in the position of not being able to meet its customers' service needs, a situation that has already presented a potentially-significant impact to MFS as it would any small competitor.

I request that you ensure that MFS' account status is not negatively affected, and that our ability to provide additional services to our customers through collocation is not further hindered, in the event that these payments differ from the amounts that Southwestern Bell ultimately bills. Of course, MFS expects a prompt refund if the amounts that it is submitting today exceed those that Southwestern Bell ultimately bills.

As I believe is obvious, the submission of these checks does not constitute and should not be construed as an admission that the rates established in Southwestern Bell's tariffs are lawful or reasonable. Moreover, MFS does not prejudice its right to contest rates, terms or conditions of the tariff before the Federal Communications Commission or any other appropriate regulatory body or court of law. Also, please note that the information contained in this letter and its attachments is highly confidential information relating to our network and, therefore, should not be used by Southwestern Bell for any purpose other than to implement the required service.

Please direct any questions to me at the above number. Thank you for any assistance that you can provide in meeting my requests.

  
Senior Director - Collocation/Unbundled Loops

#### Attachments

cc: Hope Harbeck - Southwestern Bell  
Mickey Morgan - MFS  
Chris Malinowski - MFS  
Mark Eastman - MFS  
Dick Davis - MFS

## **EXHIBIT D**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Southwestern Bell Telephone  
Tariff F.C.C. No. 73

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Transmittal No. 2499

**MFS COMMUNICATIONS COMPANY INC.  
PETITION TO REJECT, OR IN THE ALTERNATIVE, TO  
SUSPEND AND INVESTIGATE, PROPOSED TARIFF REVISIONS**

MFS Communications Company, Inc. ("MFS"), by its undersigned counsel, hereby petitions the Commission, pursuant to Section 1.773 of the Commission's Rules, 47 C.F.R. § 1.773, to reject the proposed tariff revisions filed by Southwestern Bell Telephone ("SWB") in the above-captioned transmittal.

MFS is an optical fiber-based provider of access services to corporate customers, with fiber networks currently operating in metropolitan areas across the country, including Dallas, Houston and St. Louis. In addition, MFS has established, or is in the process of establishing, expanded interconnection arrangements in SWB central offices in those cities. As such, MFS seeks to compete directly with SWB and other local exchange carriers ("LECs"), and is vitally concerned that LECs be precluded from setting excessive or otherwise unreasonable rates for their expanded interconnection offerings. As discussed below, the above-captioned SWB transmittal seeks to establish excessive and unnecessary charges for expanded interconnection in an attempt to disadvantage interconnection-based competitors within SWB's service areas.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In Transmittal No. 2499, SWB proposes to establish an Alarm Collection Device ("ACD") Access Link for use by parties that have established expanded interconnection arrangements in SWB central offices. SWB asserts that, in order to perform necessary monitoring and control functions, each interconnector must purchase an ACD, either by purchasing a separate, dedicated ACD for each expanded interconnection arrangement, or by using ACD Link service to link an interconnector's multiple expanded interconnection arrangements in different central offices to a single ACD that would be dedicated to that interconnected customer's use. As MFS discusses below, SWB's proposed ACD Link element – like its currently effective dedicated ACD element – is wholly unnecessary, and unreasonably inflates the cost of expanded interconnection. As such, the SWB filing should be rejected, and the element should be removed from its expanded interconnection tariff. Moreover, the Commission should initiate an investigation of SWB's currently effective ACD offering by including the service in its pending investigation of SWB's virtual interconnection rates in CC Docket No. 94-97, Phase I or Phase II.

SWB first introduced its ADC service in March in its Transmittal No. 2440. MFS did not oppose that filing because MFS assumed that ACD was an optional service. Indeed, nothing in the tariffed terms and conditions associated with the service indicates that it must be purchased by interconnectors. In subsequent contacts with SWB personnel, however, SWB informed MFS that ACD is a mandatory service that must be purchased in conjunction with its Virtual Collocation service, and would not

process MFS' requests for expanded interconnection unless MFS agreed to pay for the ACD.

While the instant filing remains ambiguous – no provision expressly states that interconnectors must purchase either ACD or ACD Link – SWB's description and justification indicates that purchase of the service is mandatory.<sup>1/</sup> This requirement is inherently unreasonable for the following reasons.

First, there is no technical reason to require interconnectors to purchase an ACD. In its expanded interconnection with SWB, MFS deploys Fujitsu terminating equipment, which is the same equipment that SWB uses in its own offices. An integral function of this Fujitsu equipment is the provision of a Data Control Channel ("DCC"). When activated, the DCC provides full monitoring and control capabilities, and communicates monitoring and control data between the MFS and SWB equipment. As a result, the ACD facilities that SWB has forced MFS to purchase are duplicative and serve no legitimate technical function. This conclusion is supported by the fact that *no other LEC in the country* -- under either virtual or physical collocation -- has tariffed a similar rate element or has required interconnectors to purchase similar ACD equipment.

Indeed, it is significant that SWB neglected to provide such a rate element in its initial virtual collocation (or previously, in its physical collocation) tariff filing. If such equipment is, as SWB asserts, necessary to provide a functionality critical to

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<sup>1/</sup> See Transmittal No. 2499, Description and Justification ("D&J") at page 2-2.

interconnection, it is inconceivable that SWB would have failed to include it in its original tariff filings. Moreover, because SWB has not made public the direct cost and overhead loading data for its expanded interconnection services, it is impossible to determine whether an ACD-type functionality is not already recovered in SWB's overhead loadings. In fact, SWB's introduction of the service in subsequent filings is a transparent strategy for hiding its proposed ACD elements from public scrutiny and the rigors of the Commission's pending investigation of SWB's virtual interconnection rates.

In addition, SWB's proposed ACD Link rate element -- like its dedicated ACD rate -- serve only to further inflate what are the most excessive expanded interconnection rates in the country. SWB has consistently demonstrated its determination to forestall interconnection-based competition by using every available means -- including filing the highest interconnection rates in the country, refusing to provide publicly-available cost data essential to a review of its rates, and employing every procedural tactic possible in an attempt to evade the Commission's expanded interconnection rules and policies. SWB's attempt to further inflate its interconnection charges by requiring the mandatory purchase of ACD or ACD Link must not be countenanced by the Commission.

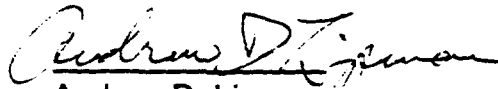
Finally, even if an ACD is required for SWB interconnection arrangements -- and the foregoing discussion makes clear that it is not -- SWB has failed to demonstrate that a *dedicated* ACD is required. As SWB interprets its currently effective ACD provisions, each interconnector is required to purchase a separate, dedicated ACD for every interconnection arrangement that it maintains. This requirement is

grossly inefficient and imposes duplicative and excessive costs on interconnectors. SWB's proposed ACD Link is similarly flawed. While the Link would allow an interconnector with expanded interconnection arrangements in different central offices to share an ACD, it still requires that the ACD be dedicated to the use of a single interconnector. There is no technical justification for this requirement. Rather, if an ACD is required -- and MFS maintains that it is not -- a single ACD has adequate capacity to serve all interconnectors in a given service area. Therefore there is no reasonable justification for SWB's "one ACD per customer" requirement.

Again, SWB's rates and rate structure can only be explained by a desire to inflate the costs of interconnection for SWB's competitors by forcing them to purchase unnecessary equipment. In light of this blatant attempt to pad its interconnection charges, the Commission should reject SWB's Transmittal No. 2499. In addition, the Commission should include SWB's currently effective ACD rates and rate filings in the pending investigation of SWB's virtual interconnection tariff in CC Docket No. 94-97, Phase I or Phase II.

For the foregoing reasons, MFS respectfully requests that the Commission reject SWB's proposed ACD Access Link rate and rate element. If the Commission does not reject the filing -- and MFS has shown that the filing merits rejection -- the Commission should, at a minimum, suspend the filing for the full five month period permitted by statute and initiate a full investigation.

Respectfully submitted,



Andrew D. Lipman,  
Jonathan E. Canis

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Attorneys for  
MFS COMMUNICATIONS COMPANY,  
INC.

Dated: September 28, 1995